

Staff Summary Report



Hearing Officer Hearing Date: December 2, 2008

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Division to abate public nuisance items located at the **FAGAN RESIDENCE** located at 4433 South Poplar Street.

DOCUMENT NAME: 20081202dsng03

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Division to abate public nuisance items in violation of the Tempe City Code for the **FAGAN RESIDENCE (PL080414/ABT08038)** (Shane Fagan, property owner) Complaint CE085857 located at 4433 South Poplar Street in the R1-6, Single Family Residential District.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

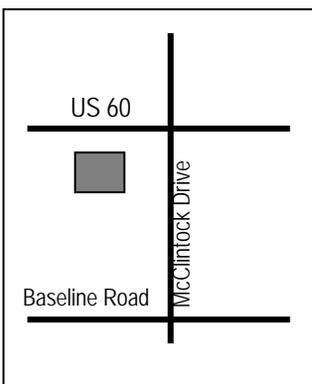
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO: The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the **FAGAN RESIDENCE (PL080414/ABT08038)** (Shane Fagan, property owner) Complaint CE085857 located at 4433 South Poplar Street in the R1-6, Single Family Residential District. This residence is located southwest of the intersection of the U.S. 60 and McClintock Drive. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends the authorization of abatement of this property. To date, staff has received no public input on this case.



PAGES:

1. List of Attachments
2. Comments; History & Facts/Description

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-10. Neighborhood Enhancement Report
- 11-12. Neighborhood Enhancement Photos

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **FAGAN RESIDENCE (PL080414/ABT08038)** (Shane Fagan, property owner) Complaint CE085857 located at 4433 South Poplar Street in the R1-6, Single Family Residential District. This residence is located southwest of the intersection of the U.S. 60 and McClintock Drive. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Julie Scofield, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

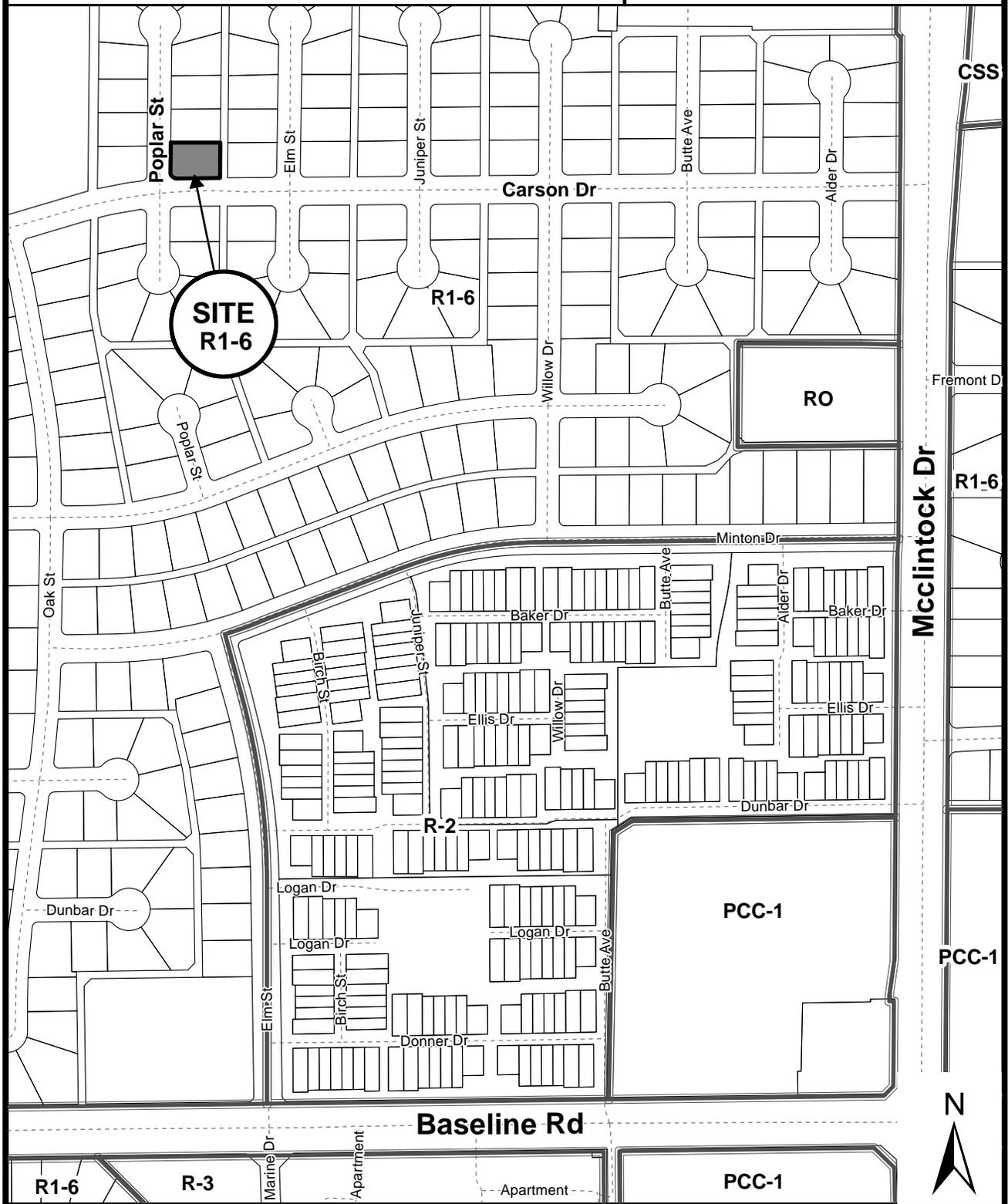
Staff recommends the authorization of abatement of this property.

HISTORY & FACTS: See attached memo from the Neighborhood Enhancement Division.

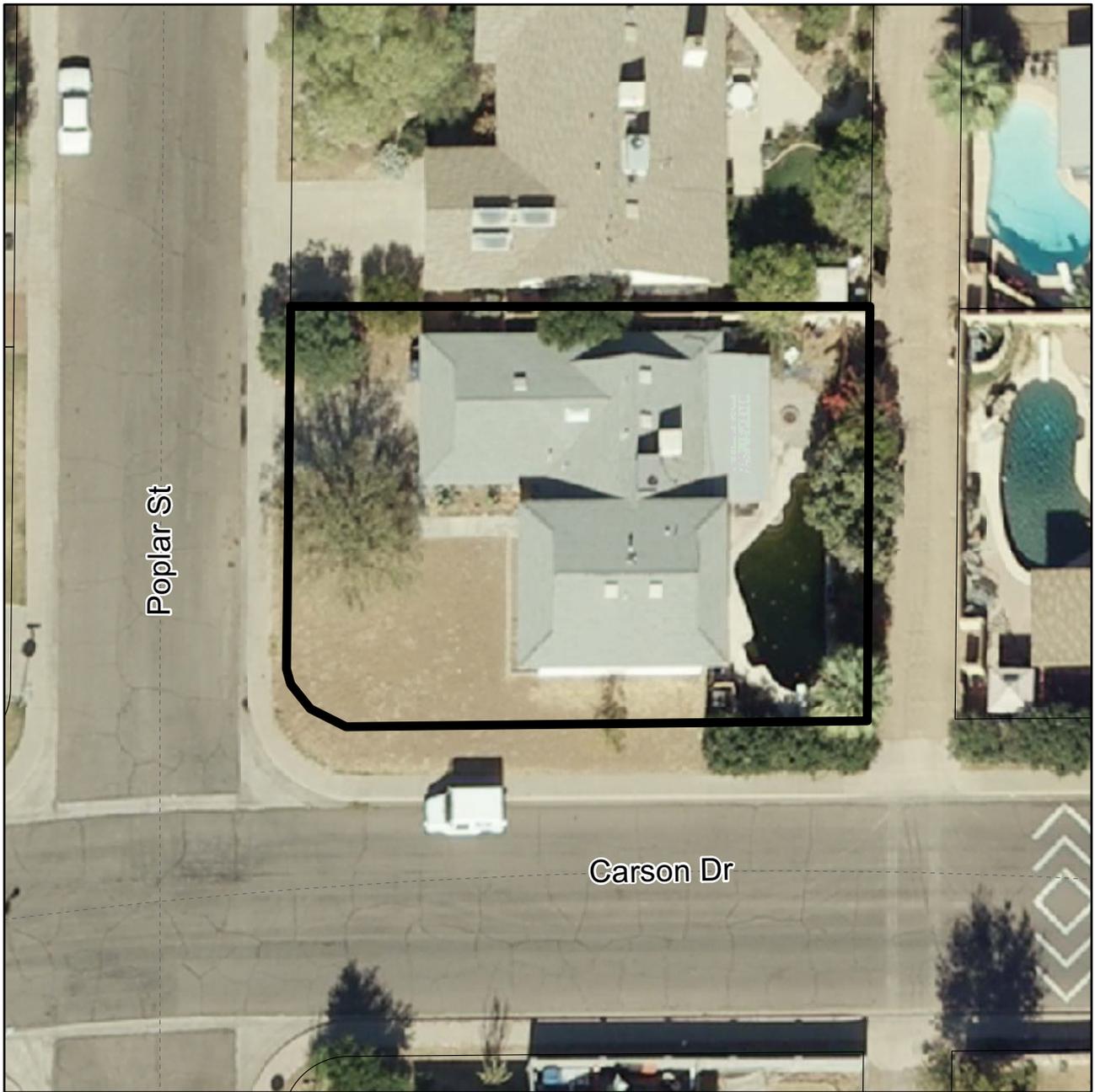
DESCRIPTION: Owner – Shane Fagan
Applicant – Julie Scofield, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 7,847 sf./18 acres
Building area – 2,360 sf.
Year of construction – 1970

FAGAN RESIDENCE

PL080414



Location Map



FAGAN RESIDENCE (PL080414)

DATE: 10/30/08
TO: Jan Koehn, Administrator
FROM: Julie Scofield
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE085857

LOCATION: 4433 S. Poplar St., Tempe, AZ 85282

LEGAL: Book 133, Map 39, Parcel 078, as recorded with the Maricopa County Assessor

OWNER: Shane J. Fagan
4433 S. Poplar St.
Tempe, AZ 85282

FINDINGS:

- 08/11/08 -The Neighborhood Enhancement Division received a complaint on the above property concerning deteriorated landscape.
- 08/12/08 -The property was inspected and found to be in violation for excessive weeds and grass growing within the gravel landscape in the front and side yard. A courtesy notice was sent to the owner.
- 08/27/08 -The property was inspected and there has been no change to the condition of the property. A final notice was sent to the owner.
- 09/25/08- An estimate was requested from contractor Jack Harrington to abate the property.
- 10/28/08- The estimate was received for the abatement in the amount of \$904.00
- 10/30/08- An abatement request was submitted for the hearing on December 2, 2008.
- 11/4/08 – The original estimate was adjusted to \$552.00. A revised notice was mailed and posted on the property.

PROPERTY HISTORY:

- 02/22/00 - Property was in violation for deteriorated landscape.
- 03/02/01 - Property was in violation for deteriorated landscape.
- 03/26/03 - Property was in violation for deteriorated landscape.

- 01/29/04 - Property was in violation for deteriorated landscape, junk and trash on the side yard. Two civil citations were issued to Mr. Fagan.
- 10/19/04 - Property was in violation for deteriorated landscape and junk and trash in the front yard. Two civil citations were issued to Mr. Fagan.
- 04/07/05 - Property was in violation for deteriorated landscape and Mr. Fagan was issued two civil citations.
- 06/06/05 - Property was in violation for deteriorated landscape and Mr. Fagan was issued one citation.
- 09/07/06 - Property was in violation for deteriorated landscape and Mr. Fagan was issued one citation.
- 09/20/07 - Abatement request was approved for removal of junk and debris on the north side yard and landscape clean up.
- 01/07/08 - Property was in violation for deteriorated landscape and junk and debris.
- 03/04/08 - Abatement was filed for the violations.
- 04/15/08 - Abatement was approved through the hearing officer.
- 05/09/08 - Property was abated and cleaned up.

RECOMMENDATIONS:

I recommend the approval for abatement at 4433 S. Poplar St. which is owned by Mr. Shane Fagan. I would also like to request a rolling abatement so that in the event the landscaping is in violation again, we can have it cleaned up by our contractor. Due to the history of this property, it is very clear that Mr. Fagan is unable to keep his property in compliance. Mr. Fagan has been given ample time to bring his property into compliance and has failed to appear on all citations issued since 2000. There has been no indication in Mr. Fagan's actions that he plans on maintaining the property and keeping it in compliance.

Respectfully submitted,
Julie Scofield

ACTION TAKEN: _____
NAME: _____
DATE: 10/30/08



City of Tempe
P. O. Box 5002
Tempe, AZ 85280
www.tempe.gov
(480) 350-8372
(480) 858-2231 (fax)

Neighborhood Enhancement Department

*Revised Estimate
issued 11/4 to
Prop owner*

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 11/04/08

TO:

**SHANE FAGAN
4433 S. POPLAR ST.
TEMPE, AZ 85282**

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations on the following described property:

LEGAL: Book 133, Map 39 Parcel 078, as recorded with the Maricopa County Assessor.

**LOCATION: 4433 S. POPLAR ST.
TEMPE, AZ 85282**

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of 12/2/08. We are requesting Hearing Officer Authorization to abate this public nuisance codes in accordance with Section 21-53 of the Tempe City Code by removal and repair of: grass and weeds in gravel. TCC 21-3-B-8 which prohibits landscaping that is dead, overheight, damaged, or presents a deteriorated or slum-like appearance.

As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violation. If the violations have not been corrected within thirty days, our office will proceed with the abatement process. Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be \$552.00. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual cost of abatement or three hundred (\$300) dollars, whichever is greater, for expenses incurred by the city for abatement procedures, and the cost of recording liens and releases will be charged. The recorded lien may bear interest at the legal rate for judgments in the State of Arizona. Administrative charges and the cost of recording liens and releases shall become a lien on the property whether or not the public nuisance is abated by the City.

If you have questions regarding this matter, please contact our office at (480) 350-8372.

Code Enforcement Officer: Julie Scofield

Phone Number 480-350-8951



City of Tempe
P. O. Box 5002
Tempe, AZ 85280
www.tempe.gov
(480) 350-8372
(480) 858-2231 (fax)

*This estimate
issued 10/30 to
propose*

Neighborhood Enhancement Department

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 10/30/08

TO:

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4433 S. POPLAR ST.
TEMPE, AZ 85282**

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As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violation. If the violations have not been corrected within thirty days, our office will proceed with the abatement process. Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be \$904.00. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual cost of abatement or three hundred (\$300) dollars, whichever is greater, for expenses incurred by the city for abatement procedures, and the cost of recording liens and releases will be charged. The recorded lien may bear interest at the legal rate for judgments in the State of Arizona. Administrative charges and the cost of recording liens and releases shall become a lien on the property whether or not the public nuisance is abated by the City. If you have questions regarding this matter, please contact our office at (480) 350-8372.

Code Enforcement Officer: Julie Scofield

Phone Number 480-350-8951

JACK HARRINGTON
6828 N. 25TH DR., #B
PHOENIX, AZ 85017
TEL: (602) 446-2630
FAX : (602) 347-5487
FAX COVER & PROPOSAL

*Revised
C.H.*

FAXED TO THE FOLLOWING NUMBER(S) : 480-858-2278

THE FOLLOWING DOCUMENT IS FOR:
NAME: JULIE

FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 11/4/08 TIME: 1:10 A.M. P.M.

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK AT FOR THE CITY OF TEMPE
UNDER CONTRACT # T08-092-02

ADDRESS: 4433 E. POPLAR ST. TEMPE, AZ.

1. REMOVE WEEDS FROM FRONT YARD	
16 MAN HRS @ \$22./HR	\$352.00
2. TEMPE POLICE OFFICER - 4HRS @ \$50./HR	\$200.00
TOTAL	<u>\$552.00</u>

THANK YOU
[Signature]
JACK HARRINGTON

ACCEPTANCE

B/S estimate

JACK HARRINGTON
6828 N. 25TH DR., #B
PHOENIX, AZ 85017
TEL: (602) 446-2630
FAX : (602) 347-5487
FAX COVER & PROPOSAL

FAXED TO THE FOLLOWING NUMBER(S) : 480-858-2278

THE FOLLOWING DOCUMENT IS FOR:
NAME: JULIE

FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 10/28/08 TIME: 2:30 A.M. P.M.

PROPOSAL

**WE PROPOSE TO DO THE FOLLOWING WORK AT
ADDRESS: 4433 E. POPLAR ST.**

1. REMOVE WEEDS FROM FRONT YARD	
32 MAN HRS @ \$22./HR	\$704.00
IF OCCUPIED	
4 HRS FOR TEMPE POLICE @ \$50.00/HR	\$200.00
TOTAL	<u>\$904.00</u>

THANK YOU
Jack Harrington
JACK HARRINGTON

ACCEPTANCE

CASE #CE085857



**City of Tempe Code Compliance Division
Notice to Comply: Article I. Nuisances**

Mailed on Date: 8/13/08

**SHANE FAGAN
4433 S. POPLAR ST.
TEMPE, AZ 85282**

This notice to comply is to inform you that on 8/12/08, the property located at 4433 S. POPLAR ST. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 8/27/08 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

Violation of the Tempe City Code, Chapter 21-3-b-8

Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground;

Please take the following corrective action by: 8/27/08

Required Correction(s):

- 1. PLEASE COMPLETELY REMOVE ALL GRASS AND WEEDS FROM THE GRAVEL LANDSCAPING.**
- 2. PLEASE MAINTAIN THE LANDSCAPING TO AVOID HAVING THE PROPERTY ABATED AGAIN.**

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.

Civil and Criminal Penalties

Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1st occurrence \$150 dollars per violation, 2nd occurrence \$250 dollars per violation, 3rd occurrence \$350 dollars per violation.

Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence \$350 dollars per violation, 2nd occurrence \$650 dollars per violation, 3rd occurrence \$950 dollars per violation.

Section 21-4 (B), Habitual Offender: 1st occurrence \$500 dollars + sum of other fines, 2nd occurrence \$1000 dollars + sum of other fines, 3rd occurrence \$1,500 dollars + sum of other fines.

The city has authority to abate the violation should the owner neglect, fail, or refuse to correct the violation within (30) days and to assess a lien against the property for cost of abatement.

The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

Code Inspector: JULIE SCOFIELD

Phone Number: 480-350-8951

E-mail: JULIE_SCOFIELD@TEMPE.GOV

CASE #CE085857



**City of Tempe Code Compliance Division
Final Notice to Comply: Article I. Nuisances**

Mailed on Date: 8/28/08

**SHANE FAGAN
4433 S. POPLAR ST.
TEMPE, AZ 85282**

This notice to comply is to inform you that on 8/27/08, the property located at 4433 S. POPLAR ST. was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 9/12/08 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

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Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground;

Please take the following corrective action by: 9/12/08

Required Correction(s):

1. PLEASE COMPLETELY REMOVE ALL GRASS AND WEEDS FROM THE GRAVEL LANDSCAPING.
2. PLEASE MAINTAIN THE LANDSCAPING TO AVOID HAVING THE PROPERTY ABATED AGAIN.

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Code Inspector: JULIE SCOFIELD

Phone Number: 480-350-8951

E-mail: JULIE_SCOFIELD@TEMPE.GOV

PLEASE COMPLY TO AVOID THE NEXT PROCESS WHICH WILL BE AN ABATEMENT OF THE PROPERTY.



